IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION

BEYOND SYSTEMS, INC.)
)
Plaintiff)
v.) Case No. PJM 08 cv 0921
)
WORLD AVENUE USA, LLC, et al.)
Defendants)
)
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WORLD AVENUE USA, LLC'S AMENDED LOCAL RULE 104(7) CERTIFICATE PERTAINING TO ITS MOTION TO QUASH FIFTEEN (15) NON-PARTY SUBPOENAS FOR PRODUCTION OF DOCUMENTS

Pursuant to this Court's Order dated January 18, 2011 at DE 594, Defendant, World Avenue USA, LLC ("WAUSA") hereby files its Amended Local Rule 104 Certificate Pertaining To Its Motion to Quash Fifteen (15) Non-Party Subpoenas For Production of Documents ("Motion"), and thereby amends the Certificate filed at DE 402 on August 24, 2010. WAUSA certifies that it made a good faith effort to resolve the subject matter of its Motion To Quash Fifteen (15) Non-Party Subpoenas For Production of Documents, but it was unable to do so. Specifically, on August 10, 2010 (one day after the Subpoenas were issued), WAUSA issued a letter to BSI outlining WAUSA's intention to file a motion to quash, outlining its reasoning, and requesting that BSI respond by withdrawing the Subpoenas. *See* Exhibit 1 to DE 402. Counsel for BSI initially requested more time, but then responded in writing confirming that BSI would not withdraw the non-party Subpoenas as requested by WAUSA.

On January 26, 2011, counsel for WAUSA conferred with counsel for Beyond Systems, Inc. ("BSI") regarding the Motion. Present on the telephone were Sanford M.

Saunders, Jr. for WAUSA and Stephen H. Ring for BSI. Counsel for BSI agreed to look at the issue of the Subpoenas that were re-issued to non-parties who previously responded that they had no responsive documents, consisting of AOL, Direct Brands, and Experian. As to the other issues raised in the Motion, counsel were unable to agree on a resolution of the Motion. Counsel for WAUSA advised that the "meet and confer" process as to the re-issued subpoenas had to be resolved prior to January 28, 2011.

As of this date, the parties have been unable to agree to the withdrawal of any subpoena. Rather, BSI counsel sent the attached email. Therein, BSI re-argued its good faith basis for issuing the subpoenas. BSI counsel ignores the Court's admonition at the September 23rd hearing regarding the risk of baseless allegations. *See* Transcr. of Sept. 23rd, 2010 Hearing at pp. 87:20-25; 88:1-19.

Thus, for the reasons previously expressed to this Court in WAUSA filings on this Motion [DE # 400 & 436] and the Motion to Dismiss for Fraud on the Court [DE #323 & 539], BSI's rationale is utterly wrong on the key point, which is the motives for, and whether it had a good faith basis to serve, Request 5 in each of the subpoenas. Further, particularly troubling is the fact that BSI would not reconsider its refusal to withdraw subpoenas to nonparties who had already responded to the initial identical subpoena that they had nothing.

Counsel for WAUSA also notes to the Court that there were extensive good faith efforts in connection with the Motion to Quash 85 Unknown Subpoenas (which the Court granted through Order at DE 212), Motion to Compel Compliance With Court Order at DE 212, and Motion to Dismiss For Fraud Upon The Court, and that this new set of fifteen (15) subpoenas is part of the same group of issues.

Dated: January 28, 2011.

Respectfully submitted,
Attorneys for World Avenue USA, LLC

GREENBERG TRAURIG, LLP

_______/s/____________________

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